

Appendix 1

Individual Points of Comment from the
Public Comment Letters

and

BLM'S Response

Public Comments and BLM Response on the Environmental Assessment for the The Merna 3-D Geophysical Project

The following discussion contains comments, excerpts and paraphrasing from the 20 comment letters received during the specified comment period concerning the Merna 3D Geophysical Project. It also contains BLM's Response to the comments, excerpts and paraphrasing. This information is hereby incorporated into and made part of the Environmental Record for the Merna 3D Project (EA02-309). In addition to the 20 letters received during the specified comment period, the Pinedale Field Office received 4 additional letters more than a month after the Comment Period closed. These letters are included in the Merna 3D case file, but are not specifically addressed in the EA or in the Comments addressed below.

1) Judi Adler

Adler Comment: I am very concerned that the proposed Merna 3D Seismic Survey will impact water sources in Hoback Ranches including my own. Areas of the Ranches are heavily timbered and contain significant amounts of wildlife. There has been an authenticated lynx sighting in the BLM section to the north of Hoback Ranches. I am concerned about adverse impacts on these issues. With the number of homes in this area alone we urge you to consider deleting Hoback Ranches from this project.

BLM Response: Due to the projected cost of conducting geophysical operations in the heavily forested environment in and surrounding the Hoback Ranches, Veritas DGC Land, Inc. deleted the northern 3 miles, including the Hoback Ranches, from the Merna 3D Project.

2) Hoback Ranches Service & Improvement District (HRSID) June 25, 2002

HRSID Comment: If this project is 4 to 9 miles wide it will cross into private property within Hoback Ranches, some of which is leased by various oil companies. Do the leases allow access by Veritas across our properties?

BLM Response: The Federal oil and Gas lease gives the lease holder the right to explore for and extract Federal minerals from the lease, regardless of whether the lease is all Federal (Federal surface/Federal minerals) or is split estate (Private surface/Federal minerals). Geophysical exploration is an excepted method of exploring for oil and gas reserves. The leases do not specifically give a geophysical contractor access rights to split estate lands. The geophysical contractor must negotiate with individual landowners for access. In the event a landowner denies access, the leaseholder can exercise their lease rights through the courts to gain access for a geophysical contractor. Please note the BLM response above, that Veritas has dropped the northern 3 miles, including Hoback Ranches from the Merna 3D Project.

3) Hoback Ranches Service & Improvement District (HRSID) July 8, 2002

HRSID Comment: In addition to our concerns about our Hoback Ranches roads vis-à-vis the Veritas Seismic Project, we have more than 20 miles of perimeter fences, which the District must maintain at some significant cost to the landowners. There are also fences dividing some properties. How will Veritas treat fences as they survey the properties? Are they responsible for any damage and will they repair damage before the grazing season begins in the spring?

BLM Response: Veritas is responsible for securing access to the private lands within the project area. This includes crossing fences. The private landowners can specify how and/or where fences can be crossed. Typically geophysical companies prefer to use existing gates. It is between the geophysical operator and the landowner to determine when a damaged/crossed fence is to be repaired. If an fence on BLM-administered land is let down for crossing, the BLM requires that the fence be restored to it's original condition immediately after it's crossed. As stated above the northern 3 miles of the project from been dropped, consequently there should be no damage to fences in the Hoback Ranches by the Merna Project.

4) Jackson Hole Land Trust and the Nature Conservancy (JHLT & TNC)

JHLT & TNC Comment: As you may know, several private properties along the Hoback Rim, totaling approximately 776 acres, are protected by 11 conservation easements held by the both the Jackson Hole Land Trust and the Nature Conservancy. All of these properties are located within the seismographic project area, and each of the protected properties has significant wildlife, scenic, and agricultural values. The Land Trust and Conservancy are concerned that this testing will have a detrimental effect on the conservation values, which are contrary to the easements and the federal tax investments for the protection of these properties. For example, some of the easements exclude off-road access, and surface disturbance or occupancy.

BLM Response: Veritas has dropped the northern 3 miles of the Merna 3D Project. This includes the Hoback Rim area. See BLM response to Comment 1, above.

5) Heborne, Radakovich & Company, P.C.

Radakovich Comment: Seismic projects are a prelude to the obvious. I am disappointed in the lack of a public hearing process. With over 100 homes in the Hoback Ranches, the impact on our residents as well as our District's infrastructure will no doubt be negative for all, except the lease holders and Veritas, the contractor. Our roads are not up to County standards and never will be due to geographical and financial issues. The potential safety issues and damage to our roads warrant a public hearing process. Heavy equipment will not be allowed on our roads due to weight restrictions, as we have several areas within the Ranches that have slid and present ongoing problems.

BLM Response: The BLM Field Manager has the authority and responsibility to determine whether the action warrants public scoping. Public scoping can occur in one of several means; news releases, scoping letters mailed to persons and organizations known to be interested in a given project or area, through public meetings, and/or through a combination of the preceding. The purpose for public scoping is to obtain input and data needed to prepare an Environmental Assessment or other National Environmental Policy Act (NEPA) document for a given project or action. The Pinedale Field Office used the news release method for the Merna 3D Project to reach a broad spectrum of the public. The news release was issued on June 13, 2002 with comments due on July 15, 2002. Concerning geophysical operations within the Hoback Ranches: As stated in

BLM responses 2 and 3 above, the geophysical operator would have to negotiate access to the Hoback Ranches with the individual landowners and with the Service and Improvement District. Also as stated above, Veritas has dropped the northern 3 miles, including the Hoback Ranches from the Merna 3D Project.

6) Carol Ann Kingsley-Artes

Kingsley-Artes Comment: The privately maintained , existing roads in Hoback Ranches are narrow, of severe grades, and in condition not suitable for vibroseis buggies (40K to 65K in weight and 9'wide). The roads weight restriction of 8K is based on safety, as well as maintaining driveable conditions. Will new roads be made by Veritas on public and private land?

BLM Response: There are no proposals to construct new roads for the Merna Project. The Veritas proposed operations for the heavily forested portions of the project area (i.e., the Hoback Rim area) was drilling shot-holes with small portable drills flown to each proposed drill site by helicopter. The use of roads in Hoback Ranches would have to be negotiated by Veritas with the Service and Improvement District, however this is mute since Veritas dropped the northern 3 miles from the Merna Project

Kingsley-Artes Comment: Water is a scarce commodity at Hoback Ranches. What impacts will this project have on existing private water sources? How will the seismic project affect the potential for new wells and springs?

BLM Response: The BLM imposes a restrictions on geophysical operations on BLM-administered lands in the Pinedale Field Office Area that prohibits seismic shot-holes and vibroseis operations within 300 feet of water wells and springs. There have been no documented cases on BLM lands in the Pinedale Field Office Area where a geophysical operations has affected a spring or water well. Concerning Hoback Ranches lands it would be up to the landowners and Veritas to negotiate the restriction distance from water sources. The State of Wyoming requires that shot-holes drilled into or through a water bearing zone be sealed with bentonite to prevent water loss and aquifer contamination. Again the Hoback Ranches is no longer in the Merna project.

Kingsley-Artes Comment: Will there be permanent scars from the drilling that will alter the landscape or surrounding areas? Scenic vistas affect our properties. How will erosion be controlled in this steep terrain? Can we expect noise pollution because of the helicopter drilling and seismic testing?

BLM Response: The BLM imposes a restrictions on geophysical operations on BLM-administered lands in the Pinedale Field Office Area that prohibits vehicle operations slopes steeper than 25 percent (i.e., the slope of a typical house roof) and during times of saturated soil conditions to prevent soil erosion. The heli-portable drills have self-leveling legs and do not require the construction of a pad. Helicopter operations would create noticeable noise levels. Shot-holes are sealed so there would be no noise from shot-hole detonation. Again the Hoback Ranches is no longer in the Merna project.

Kingsley-Artes Comment: Will Veritas obtain permission from property owners to be on private land?

BLM Response: See BLM responses above concerning private lands.

Kingsley-Artes Comment: Can we expect a swath of deforestation to support the equipment necessary for this project? Will habitats for native and endangered species of fauna and flora be impacted?

BLM Response: The BLM will require that heli-portable drilled shot-holes be used in forested areas to prevent the removal of any live trees. It would be up to the private landowners to negotiated such measures for the private lands. Concerning impacts to habitats, please review the attached Environmental Assessment for disclosure of anticipated impacts and measures to be implemented to reduce or eliminate the impacts.

Kingsley-Artes Comment: What are the plans for commercial development of materials based on the findings of this proposed survey?

BLM Response: Williams is currently developing several wells on Miller land south of the Hoback Rim. Other than this we have no knowledge of future actions for mineral development in the Hoback Rim area.

7) William Fischer

Fischer Comment: Inadequate public comment time frame.

BLM Response: Refer to BLM Response 5 above. The Pinedale Field Office issued a new release for the Merna 3D Project to reach a broad spectrum of the public. The news release was issued on June 13, 2002 with comments due on July 15, 2002, which allowed a 30-day comment period. The BLM cannot control when a particular media entity chooses to run a release.

Fischer Comment: I have a number of concerns specific to the problem of allowing seismic shot-hole drilling and the movement of heavy vibrators and drilling equipment on private lands within the Hoback Ranches subdivision.

BLM Response: Refer to the BLM Response to the Adler, HRSID, Radakovich, and Kingsley-Artes comments above. Again note that the northern 3 miles, including Hoback Ranches has been dropped from the Merna Project.

8) Tom Segerstrom

Segerstrom Comment: I have been asked to speak for several concerned landowners of the Hoback Ranches Subdivision in regard to the proposed 3-D seismographic survey between Bondurant and Daniel. We are concerned that the BLM will not consider the impacts to wildlife and wildlife habitats on private lands within the survey area that will result from this federal permitting action. The wildlife resources within the survey area are supported to a large degree by habitat located on private lands. The private landowners do not have the resources to adequately identify and present the negative impacts that may occur to wildlife and habitats found off BLM lands to the seismograph companies, energy companies, or to the court system. Your Scoping Statement must take adequate measure of the impact to these wildlife resources on private lands. To forego a thorough assessment of the potential and additive negative impacts to wildlife and wildlife habitat on private surface (parcel by parcel) amounts to analyzing the effects of your federal permitting action in a vacuum. In order for this federal scoping notice and analysis process to be complete, a full, fine scale analysis of the impacts to wildlife on private lands must be done. If

surface disruptions from this huge seismic project, and the energy development that inevitably follows, are permitted on BLM surface, then by default, there is a mandate that the same impact or more will take place on the private surface within the survey area. Your analysis must consider the range of impacts of this survey on surrounding private parcels. Moreover, because of the consequences of the survey, a full EIS is appropriate.

BLM Response: The attached Environmental Assessment addressed the anticipated impacts including impacts to wildlife, of the project on Federal, private, and state lands. Please note that 60 percent of the project would occur on private state surface where the BLM cannot impose restrictions on the geophysical operator. As stated in the BLM Responses above, the geophysical operator must negotiate access rights and restrictions with the individual landowners. It is up to the state and private landowners to impose restrictions on the geophysical operations on their respective lands. The analysis was completed on the entire project area, not on a parcel-by-parcel basis because the BLM does not have inventory data for individual private parcels, nor do we have the authority to enter the private parcels to gather such information. Based on our analysis, we concluded that an EIS is not warranted. Concerning analysis of future energy development, we do not know what level of future energy development may or may not be. Consequently, we cannot make this analysis at this time. When and if additional development is proposed, additional NEPA analysis will be initiated at that time. Please note that as stated above, the northern 3 miles of the project area have been dropped, consequently this area is not included in the Environmental Assessment.

9) Anonymous

Anonymous Comment: I believe the project should not be approved. The project area especially the residential area of northern Sublette County is mixed use land with no hydrocarbon development. Northern Sublette County continues to experience significant residential growth and increasing land values because the land is non-industrial. To introduce mineral development now is not only a mistake but would stifle the rise in land values that brings property tax revenue as well as value added to the business community in both Teton and Sublette Counties.

I find it perplexing that the BLM, despite the disclaimer that it only seeks comments on the public lands part of this project, does not acknowledge that a single project scope covers all the proposed project lands. Not only should the BLM consider the project as a whole, but it should evaluate it as a continued portion of the work underway in the whole Pinedale Field Office jurisdiction. The environmental and economic assessment of the whole project area needs to be undertaken. Show how residential areas will be impacted in the future. I would want you to evaluate the economic impact and the likely deleterious effect that hydrocarbon development might have on the rapidly developing residential lands, the pristine environmental quality here now, and the aesthetics and high environmental values placed on access to undisturbed public and private lands.

BLM Response: The comment letter refers in a large part to the Hoback Ranches and other subdivisions in the Hoback Rim area. As stated above this area has been dropped from the Merna Project and consequently this area is not included in the Environmental Assessment. The commentor's statement that the Merna project area is mixed land use with no hydrocarbon development is not entirely correct, as indicated minerals section in the Merna 3D EA, 33 wells have been drilled within the project perimeters. Four of these wells are currently producing hydrocarbons or are capable of producing hydrocarbons. One of the wells capable of producing is located approximately 2½ miles south of the Hoback Ranches Subdivision.

Concerning the commentor's statement that mineral development would stifle the rise in land values that brings property tax revenue as well as value added to the business community in both Teton and Sublette Counties, it should be noted that taxes derived from mineral development form 89 percent of the Sublette County tax base. Monies received from private property tax accounts for 3 percent of the base. Employment associated with mineral development contributes to the local and regional business community. A recent article in the Pinedale Roundup stated the oil and gas workers are the highest paid employment base in Sublette County.

The commentor states that the EA needs to include an environmental and economic assessment for the whole project area. This is true and the EA does. Concerning the statement that the Merna 3D EA should address all actions occurring within the Pinedale Field Office; it is not practical for this EA to consider unrelated actions, such as, a livestock fence or water well located elsewhere in the Field Office. The EA does the cumulative affects of the proposed seismic project with past, current, and on-going activities within the Merna project area. It also references the Jonah II and Pinedale Anticline EISs. In addition the Pinedale Field Office is in the process of revising the Pinedale Resource Management Plan (RMP). This plan revision will address current actions, as well as anticipated actions through 2020.

Concerning future impacts to private lands; again the RMP revision will address anticipated development through 2020. This development scenario has yet to be developed, consequently we do not currently have the basis for determining future impacts to private lands.

10) William and Jane Olsen

Comment: The Olsen's expressed the essentially the same concerns as addresses in the Adler , HRSID, and Kingsley-Artes comments and BLM Responses above. Additionally, the Olsen's requested that the northern 3 miles, including the Hoback Ranches be dropped from the Merna project.

BLM Response: Refer to the BLM Responses to the HRSID, and Kingsley-Artes comments. Also note that Veritas has dropped the northern 3 miles from the Merna project due to anticipated costs.

11) Wyoming Wildlife Federation (WWF)

WWF Comment: This project combined with lower forage production due to the drought, in addition to habitat degradation by other developments, could have significant impacts on antelope and deer populations should future winters prove to be severe.

BLM Response: The Merna 3D EA acknowledges that the proposed geophysical activity would damage or kill approximately 1480 acres of sagebrush (0.9 percent of the project area). It is important to remember that this occurs in very narrow bands scattered uniformly across the project area. The EA also notes that this kill/damage pattern is analogous to a sagebrush thinning and will serve to bring younger, more vibrant and succulent brush plants back to the area. These younger plants would potentially provide higher protein forage for wintering mule deer and antelope in future winters.

WWF Comment: The proposed exploration activity is scheduled to take place during critical migration periods for some big game species. This could cause additional pressure on already stressed transitional ranges and prevent herds from reaching their normal wintering areas or at least

at the very least through delay or diversion of normal migration patterns, cause them to reach their normal wintering areas in poorer body condition thus increasing winter mortality.

BLM Response: The Merna 3D acknowledges that the proposed geophysical activity would coincide with some mule deer, antelope and possibly elk migration is portions of the project area. The EA states, that cases have been documented where elk have moved an average of ¾-mile from the noise of surface seismic explosive detonation. This project contains no surface explosives; consequently the displacement is expected to be less than ¾-mile. Further, there will not be continuous activity across the full width or length of the project. The EA states that the proposed seismic activity is transitory and would only occur in a very small portion of the project area at one time. It is also important to remember a migration corridor is just that a corridor. It is not necessarily a narrow constricted passageway through which all animals must pass. The corridor does contain two bottleneck or constriction areas. One on the Green River several miles above Warren Bridge and another at Trapper's Point 6 miles west of Pinedale. The Merna 3D Project is close to, but NOT on either of these bottleneck areas. The Merna Project will likely to cause some animals to divert their path to avoid the geophysical operations. Due to the narrow area of active geophysical operations at a given time, the transient nature of the geophysical operations, and the broad width of the migration corridor, animal divergence is not expected to be consequential. The Merna project is not expected to adversely affect the big game migration.

WWF Comment: Sage grouse use heavy sagebrush for nesting and sagebrush around riparian areas for rearing their young. If this project goes forward we feel that all consideration should be given to nesting sage grouse and their young of the year. It should also be noted that loud activity around sage grouse leks during the mating season could seriously disrupt lek activity resulting in a significant reduction in breeding success.

BLM Response: The Merna 3D Project as currently scheduled would not coincide with sage grouse breeding, nesting, or brood rearing seasons. In the event the schedule should change, restrictions included in Appendix F of the Merna 3D EA prescribe measures to protect lek, nesting, and brooding rearing activities. In addition, contains a condition that restricts geophysical vehicle operations in stands of sagebrush contain a canopy of plants two-foot tall or taller.

WWF Comment: The Wyoming Game and Fish Department (WGFD) has performed studies documenting the fact that gas exploration causes marked changes in elk distribution and in order to avoid displacing elk any seismograph activity should be completed before November 1.

BLM Response: The Merna 3D Project area contain portions of the Bench Corral and Franz elk feedground and associated crucial winter habitat. Under the Pinedale RMP and consistent with WGFD recommendations both feedgrounds are protected by No Surface Occupancy and No Surface Disturbance from November 15 through April 30 restrictions. The No Surface Occupancy restriction is intended to prevent the complete removal of soils and vegetation and the installation of facilities. The proposed project is not expected to remove soil nor all of the vegetation from an area, nor does it establish any facilities. The November 15 through April 30 restriction prohibits activity on the crucial winter range during this period. Operations are scheduled to be past the Bench Corral well before November 15 or even before November 1. Operations would coincide with elk occupation on the Franz feedground, however based on Veritas consultation with the WGFD Pinedale Office (Doug McWhiter) geophysical operations will not be conducted within ½-mile of the feedground.

WWF Comment: We would expect all seismograph activity to stay clear of any winter or other

crucial habitat during the critical time periods when wildlife need it the most.

Refer to the wildlife discussion in the Merna 3D EA and in the Decision Record for the EA.

12) Rollin and Bettina Sparrowe

Sparrowe Comment: We are not opposed to careful development of energy resources, but want full consideration of the effects in wildlife, fisheries, and human residents.

BLM Response: The attached EA and Decision Record provide descriptions of the affected resources, the anticipated impacts, and the mitigation imposed to reduce the impacts.

Sparrowe Comment: We are aware from other landowners' experiences that the machinery can leave huge ruts and that wetlands may be driven through and that simple payment for damages does not make up for the habitat disturbances. This certainly must be a problem for public lands as well.

BLM Response: Inspections of past geophysical projects on BLM lands have revealed isolated instances where a vibro buggy has encountered a sub-irrigated area and has caused ruts and areas on side slopes where vehicle have spun-out. The geophysical operator was required to fill the ruts/spin-outs and reseed if needed.

Sparrowe Comment: The track of leasing, exploration, and eventual development puts BLM in an important role to evaluate impacts, assess tradeoffs among competing public values, and make important sequential that affect renewable as well as mineral resources on public lands. Those decisions have direct impact on adjacent private landowners. There is no way that each sequential stage, such as the proposed Merna 3D Seismic, can be considered an independent action without accumulating effects on public lands and public and private resources. We recommend fullscale assessment and communication to the public of:

1. The existing magnitude of energy development in the Green River Basin and whether another development of this scale is needed at this time;
2. The habitat and fish and wildlife resources that will be affected if large-scale development occurs in the project area;
3. The economic, aesthetic, recreation, cultural, and business (including tourist) values derived locally from the existing resources in their current state and what the impact of the proposed action will be on those values; and
4. Alternative development scenarios, ranging from no further development to a more measured and planned pace of development.

BLM Response: Much of the preceding comment more relate to area wide planning. The Pinedale Field Office is currently in the process of revising the Pinedale RMP and will be evaluating anticipated development and various development scenarios.

It is very desirable to address all phases of a development. However it is frequently necessary to collect data and inventory information to be able to formulate the development scenario. Geophysical exploration is essentially an inventory and data collection process to determine whether the subsurface geology contain suitable structure for mineral development. It is analogous to conducting big game inventories to determine whether there are sufficient animals to support hunting. Geophysical projects like the Merna 3D can provide valuable insight of future actions. Without suitable data it is extremely difficult for the energy industry to predict/project future development. Without these predictions/projections is extremely difficult to accurately analyze

future actions and their potential effects.

The Merna 3D EA does address economic, aesthetic, recreation, cultural, and business values for the Merna Project area.

13) Petroleum Association of Wyoming (PAW)

PAW Comment: The Applicant is bound by the Resource Management Plan (RMP), which allows for geophysical activity in the proposed project area. The activity will create minimal surface disturbance and the mandatory mitigation in effect through the RMP is more than adequate to protect resources for this proposed action and additional concerns can and will be analyzed in the Environmental Assessment (EA) and the site-specific analysis.

BLM Response: The attached EA discusses the projected level of impact that is expected to occur from the Merna 3D Project. It also lists the mitigation (over and above the RMP restrictions) deemed necessary to minimize these project impacts.

PAW Comment: The detailed image of the subsurface that 3-D provides, allows the operator to target the most promising areas while avoiding areas that would otherwise require exploratory drilling. This procedure is much less intrusive than exploratory drilling, which must be analyzed as an alternative to seismic activity. This technology is a short-term temporary disturbance and it does not require the construction of surface facilities or roads. The impact to vegetation and soils is temporary and will be eliminated after one growing season. The short-term and dispersed nature of 3-D seismic and its minimal need for vehicles will not create a significant disturbance to other resources (i.e., wildlife) . . .

BLM Response: The EA does acknowledge that exploratory drilling is an alternative that would likely be exercised by operators if the seismic data is not collected. The EA does not develop a specific exploratory drilling alternative, because we have no way of determining how many and where exploratory wells would potentially be drilled. The EA addressed the impacts to soils and vegetation and determined that impacts to brush species, such as sagebrush, lasts longer than one growing season. The EA also describes the projected impacts to wildlife and prescribes measures to reduce these impacts.

PAW Comment: An analysis should be included in the EA addressing socio-economics and the positive effects the project will have on the surrounding communities.

BLM Response: The EA addresses the socio-economic benefits and impacts of the proposed project.

PAW Comment: Seismic technology provides the necessary information that can significantly reduce the number of unsuccessful exploration and development wells drilled; thereby significantly minimizing surface disturbance. Geophysical activity is consistent with President's National Energy Policy and the Secretary of Interior's "4C's" philosophy to promote conservation practices with energy development and should be encouraged by BLM. BLM must consider and provide adequate access to areas in order to obtain the valuable information that seismic activity provides.

BLM Response: No response required.

14) State of Wyoming Office of Federal Land Policy (OFLP)

OFLP Comment: The Office of Federal Land Policy has reviewed the Scoping Statement (SS) for the Veritas 3-D Seismic Exploration near Merna on behalf of the State of Wyoming. This Office has also distributed the SS to the affected State agencies for their review, in accordance with State Clearinghouse procedures. Attached are comments from the Wyoming Game and Fish Department, State Historic Preservation Office, Wyoming Department of Environmental Quality, and Office of State Lands and Investments.

Please address the wildlife, cultural, and permitting concerns noted in the attached letters during the formulation of alternatives, impact analysis, in the disclosure document, and during the project design and implementation.

BLM Response: No response required.

15) State Historic Preservation Office (SHPO)

SHPO Comment: Management of cultural resources on Bureau of Land Management projects is conducted in accordance with Section 106 of the National Historic Preservation Act, the BLM National Cultural Programmatic Agreement, and the Wyoming State Protocol Agreement. These call for survey, evaluation, and protection of significant historic and archaeological sites prior to any disturbance.

Provided the BLM follows the established procedures, we have no objections to the project.

BLM Response: The mitigation in the cultural impact section of the Merna 3D EA describes the measures to be employed to insure the Merna Project complies with Section 106 of the National Historic Preservation Act, the BLM National Cultural Programmatic Agreement, and the Wyoming State Protocol Agreement.

16) Department of Environmental Quality (DEQ)

DEQ Comment: Any discharges to “waters of the state” must be permitted under the National Pollutant Discharge Elimination System (NPDES) program. Coverage is required from cofferdam dewatering, discharges from hydrostatic pipeline testing, or discharge of other waste waters to the waters of the state.

BLM Response: No water discharges are proposed with this project.

DEQ Comment: A Storm Water Discharge Permit is required any time a project results in clearing, grading, or otherwise disturbing five or more acres. The disturbed area does not have to be contiguous. The permit is required for surface disturbances associated with construction of the project, access roads, construction of wetland mitigation sites, borrow and stockpile areas, equipment staging and maintenance areas, and any other disturbed areas associated with construction.

BLM Response: The Merna 3D Geophysical Project does not involve construction or the stripping of the land surface.

DEQ Comment: This project may require a section 404 permit from the US Army Corp of Engineers.

BLM Response: The project does not involve excavation or filling in of wetland habitat. Steve Laster, the Pinedale Field Office 404 Permit Coordinator, contacted the Corp of Engineers Office in Cheyenne to determine if a 404 permit was required for this project. He was informed that a 404 permit is not required.

17) Office of State Lands and Investments (OSLI)

OSLI Comment: Although our office has no objection to the proposed action at this time, we would like to take this opportunity to point out that in accordance with Chapter 4, Section 13 of the rules of the Board of Land Commissioners, the Board of Land Commissioners require that Veritas DGC Land, Inc. secure the necessary authority prior to conducting operations on any state lands within the designated area.

BLM Response: As stated above concerning private lands, approval of a Notice of Intent to Conduct Geophysical Exploration by the BLM does not convey any rights to the geophysical operator to occupy or otherwise conduct operations on private or state lands. The geophysical operator must secure access to these lands from the proper private or state authority.

18) Wyoming Game and Fish Department (WGFD) Pinedale Office

WGFD-Pinedale Comment: Crucial mule deer winter ranges are found on Cora Butte and the Ryegrass/Soapholes area. It would be advantageous if operations began in the southernmost portions of the project area to insure activities in these areas would be completed prior to the arrival of winter mule deer.

BLM Response: The new winter range boundaries for the Cora Butte and Ryegrass areas have been incorporated into the wildlife section of the affected environment for the Merna 3D EA. The project is scheduled to commence at the southern end of the project about mid-September and will proceed north. The project is scheduled to be off the Ryegrass/Soapholes and Cora Butte mule deer winter ranges by November 15.

WGFD-Pinedale Comment: Significant migration corridors are found in all of the areas mentioned above. Although not crucial winter range, the movement corridors found in Webb Draw, Beaver Ridge, and Warren Bridge are likely too be heavily used by deer and some antelope in late October through late November. Again coordinating activities to be completed in these areas as soon as possible will minimize any potential impact. It is recommend that any staging areas be located away from these migration pathways, or critical winter ranges.

BLM Response: As stated above, the recording operations are scheduled to commence in mid-September. This proposed start time is designed by Veritas to cross private land hayfields within the project area after the hay is harvested and the fields are dried out, but to still be off the crucial mule deer and antelope winter ranges by November 15. Note: Many landowners would not allow access to the private lands that comprise approximately 55 percent of the project area until the hay was harvested. Under this schedule operations would likely coincide with mule deer and antelope migration in the Webb Draw, Beaver Ridge, and Warren Bridge area. This addressed in the wildlife impact discussion in the EA. Also see discussion the BLM Response to Wyoming Wildlife Federation comments above.

19) Wyoming Game and Fish Department (WGFD) Cheyenne Office

WGFD-Cheyenne Comment: The WGFD-Cheyenne Office comments are identical to the Pinedale office comments listed above. However the Cheyenne Office included one additional comment not found in the Pinedale Office comments.

The comment is as follows: Our Pinedale regional personnel have met with Veritas representatives and BLM personnel to discuss wildlife concerns relative to the remainder of the project area (Franz and Bench Corral elk feedgrounds, crucial moose winter range). We are in the process of updating crucial winter range designations for both mule deer and moose, and these updates will overlap with the proposed project area. Impacts to wintering moose should be evaluated and could be minimized if helicopter activity in core wintering areas (willow riparian habitat) is kept to an altitude of 300 feet. There are no sage grouse concerns at this time providing the project is completed before the spring strutting time period near the Ryegrass and Antelope Draw/Muddy Creek lek sites.

BLM Response: As stated above we have incorporated the revised crucial winter ranges into the Merna 3D EA. Veritas has agreed to keep helicopter operations above 300 feet over core moose winter areas. Operations are scheduled to be completed well before the sage grouse strutting season. Restrictions have been placed on the Notice of Intent to Conduct Geophysical Explorations to protect grouse during the breeding, nesting, and brood rearing periods in the event operations are not completed before these periods.

20) US Fish And Wildlife Service (USFWS)

USFWS Comment: The U.S. Fish and Wildlife Service (Service) suggests that the Bureau of Land Management (BLM) prepare a Biological Assessment (BA) for the geophysical project planned by Veritas DGC Land Inc. Specifically, the BLM should 1) address impacts to the listed species from activities associated with the project, 2) address impacts to listed and proposed species from development on non-Federal lands that is interrelated and interdependent to the Federal action, 3) clarify their commitments to species in regards to protective measures that will be implemented to avoid “take”, and 4) address cumulative impacts to listed and proposed species from other reasonably foreseeable development in the area.

Section 7(c) of the Act requires that a biological assessment be prepared for any Federal action that is a major construction activity to determine the effects of the proposed action on listed and proposed species. If a biological assessment is not required (i.e., all other actions), the lead Federal agency is responsible for review of proposed activities to determine whether listed species will be affected. We would appreciate the opportunity to review any such determination document.

BLM Response: The Merna 3D Geophysical Project is not major construction project, in fact the project involves no construction or earth moving operations and consequential falls within the “all other actions” category referenced above. The EA for the project addresses black-footed ferrets, Canada lynx, gray wolf, grizzly bear, bald eagle, mountain plover, and whooping crane. With implementation of the following protective measures, the project will not result in a “take” of any of these species:

Black-footed ferrets - To assure avoiding impacts to black-footed ferrets, a prairie dog town inventory, followed by a ferret inventory and mitigative measures as appropriate (per USFWS 1989 survey guidelines), would be required should source (vibe or shot-hole) points be located near active prairie dog towns (i.e., within 50 meters of an active burrow). If, however, all active prairie dog burrows are avoided by all source points by at least 50 meters, no inventory is needed (per

communication with Audrey Taylor and Pat Diebert). The following terms and conditions specific to prairie dogs and ferrets are found in Appendix F of the EA:

During project survey/staking, Veritas surveyors shall identify and indicate on a map all prairie dog burrows/mounds found along or within the proposed source and related travel routes (adapted from PRA RMP ROD p. 59). This stipulation applies to federal and non-federal lands.

Veritas surveyors shall locate all source points at least 50 m (150 ft) from all active prairie dog burrows/mounds. Receiver cables and geophones may be placed within the prairie dog towns. This stipulation applies to federal and non-federal lands.

Should the operator wish to place source points closer than 50 m to an active prairie dog burrow, Veritas shall provide BLM with a prairie dog town inventory report covering all areas within 5 miles of the colony to be impacted, per USFWS Ferret Inventory Guidelines (USFWS 1989). This stipulation applies to federal and non-federal lands. Based on the prairie dog town inventory report, the BLM Authorized Officer shall determine whether any areas meet black-footed ferret habitat criteria.

Should prairie dog colonies/complexes in the project area meet ferret habitat criteria, Veritas shall use a qualified biologist to conduct a black-footed ferret search per established USFWS guidelines. Daytime/snow searches for ferret sign may be conducted from December 1 - March 31 and nocturnal ferret searches may be conducted from July 1 - October 31. If a black-footed ferret or its sign is found, all action potentially affecting the colony/complex shall cease, and further action will be subject to USFWS guidance and/or restrictions. This stipulation applies to federal and non-federal lands.

Canada lynx - The project would not result in the removal of any trees. Source points within the forested areas would be heli-portable drilled shot-holes. The shot-holes would be detonated after snow cover by personnel on foot and supported by snowmobile. Vibe-buggy operations would be conducted near the fringes of the forested stands during snow cover conditions. Vibe-buggy and snowmobile trails would be allowed to drift closed immediately after recording operations are completed. To adequately assess the degree of project effects on Canada lynx, a biological assessment is needed covering the lynx habitat portions of the project. The BA shall be completed and approved prior to conducting operations in the forested portions of the project area. The following terms and conditions specific to Canada lynx are found in Appendix F of the EA:

Veritas shall provide BLM with a Canada Lynx Biological Assessment report for the aspen and lodgepole pine forest cover types in T36N, prior to any activity in that area (see EA Map 6). The Assessment must be performed by a qualified biologist, and address all potential project impacts to lynx or their habitat. Based on report review, the BLM in consultation with the USFWS will determine the need for any additional measures, which would be applied before approval of that project increment (adaptation of T&E decision at PRA RMP ROD p.59). This stipulation applies to federal and non-federal lands. No trees may be cut or broken.

Gary Wolf - As stated in the USFWS comment letter, all wolves in Wyoming are now considered part of the nonessential experimental population. Wolves have been sighted on several isolated and apparently unrelated instances in the project or adjacent areas. The wolf occurrences appear to be brief and transient. Due to their transient nature and the transient nature of the proposed

geophysical operations, the project is not expected to affect wolves or the wolf populations. No restrictions applied.

Grizzly Bear - As indicated in the USFWS comment letter, grizzly bear have a board range of habitat tolerance, but contiguous, relatively undisturbed mountainous habitat having a high level of topographic and vegetative diversity characterizes most areas where the species remains. The Merna 3D Project does not contain this type of habitat and there are no present day document grizzly sightings in or near the project area. Based on this the project in not expected to affect grizzly bears or their population. No restrictions applied.

Bald Eagles - One documented bald eagle nest occurs on private lands within the project area. There are no documented or known bald eagle winter roost sites within are near the project area. Based on the proposed scheduled of operations for the Merna 3D project, all operations will be completed before the February 15 to August 15 nesting and young rearing period. Based on this the project is not expected to affect bald eagles. In the event the operations scheduled should change, the following term and condition specific to Bald Eagles would be invoked (see Appendix F of the EA):

Seasonal restrictions for occupied bald eagle nests apply from February through August 15, with a 1.0-mile radius buffer zone (per PAPA EIS ROD p. A-19 and adaptation of T&E decision at PRA RMP ROD p.59). This stipulation applies to federal and non-federal lands.

Mountain Plover - There are no documented mountain plover sightings in the project area. Should the project area contain any active prairie dog colonies occurring in the project area would provide potential plover nesting habitat. The project is not scheduled to occur during the plover nesting season, consequently no impacts to plover are anticipated. In the event the operations scheduled should change, the following term and condition specific to mountain plover would be invoked (see Appendix F of the EA):

If activities are proposed to be conducted between April 10 and July 10, the geophysical operator shall provide BLM with a current mountain plover survey report covering all areas to be affected during this period (adapted from PRA RMP ROD p.59 and USFWS 2002 Mountain Plover Guidelines). Operations will not be allowed within 100 meters of active mountain plover nests.

Whooping Crane - As stated in the USFWS comment letter, all whooping cranes in western Wyoming are considered part of the nonessential experimental population. Based on past records for the region, whooping cranes are highly unlikely to occur in the project area. If instances were to occur it would likely be an incidental stop during migration. Past document occurrences were either incidental to migration or activity associated with the experimental re-introduction project at Greys Lake, Idaho. Birds hatched and reared with Sandhill cranes in Sublette County did not develop fidelity to this area. No effect or jeopardy to whooping crane is anticipated from this project. No restrictions applied.

Yellow-billed Cuckoo - There are no documented occurrences of the yellow-billed cuckoo in the Merna 3D Project area. The project area is absent of the preferred yellow-billed cuckoo nesting habitat., willow stands with a Cottonwood overstory. Vehicle operations will avoid driving over willow bushes. Operations are not scheduled to occur during the spring/early summer avian nesting and brood rearing period. No effect to yellow-billed cuckoo is anticipated from this project. No restrictions applied.

Sage Grouse and Raptors - The Merna 3D EA addressed impact and prescribed mitigation for sage grouse and raptors, refer to the wildlife discussion in the Affected Environment & Environmental Impact sections of the EA

Wetlands/Riparian Areas - The Merna 3D EA addressed impact and prescribed mitigation for wetland and riparian habitat, refer to the Affected Environment and Environmental Impact sections of the EA. Also refer to the BLM Response to the DEQ comment concerning 404 permits.

21) Wyoming Outdoor Council, Biodiversity Conservation Alliance, Defenders of Wildlife, Greater Yellowstone Coalition, Jackson Hole Conservation Alliance, Natural Resources Defense Council, The Wilderness Society, and Wyoming Chapter of the Sierra Club (WOC, et.al.)

WOC, et.al. Comment: Our concern over the natural resources in the Upper Green River Basin has been triggered by the major natural gas boom that is occurring across the majority of the Basin with new wells going in as fast as the agency can grant approval and industry can secure the drill rigs. This headlong rush to explore the Upper Green River Basin is occurring without any careful comprehensive analysis of the impacts of the oil and gas development and in excess of the reasonable foreseeable development scenario set forth in Pinedale's RMP.

BLM Response: The oil and gas development in the Upper Green River Basin has been addressed in several field or development specific EIS's. The Pinedale Anticline EIS took planning for oil and gas development to new levels by establishing specific management areas with individual and specific parameters for the number of well locations that could be developed.

The Pinedale Field Office has not exceeded the reasonable foreseeable development (RFD) scenario for oil and gas development. In 1988, the Pinedale RMP established a RFD of 900 additional well locations for the 20-year planning period. This is above the 1000 that were producing at that time. The Pinedale Anticline EIS ROD at page 34 revised the RFD with an additional projected 1044 locations. Based on AFMSS records, as of July 9, 2002 the Pinedale Field Office had 2181 producing, plugged, drilling, and constructed well locations.

WOC, et.al. Comment:

I. The BLM must protect crucial mule deer and pronghorn antelope habitat, migration corridors, and migration bottlenecks.

A. The project may not be approved because it promises to violate seasonal restrictions adopted by the BLM to protect big game

B. The BLM must consider the results of recent ungulates studies in the Pinedale Resource Area

1. The BLM must consider the impact this project will have on migration routes
2. The BLM must consider the impact this project will have on seasonal habitat
3. The BLM must consider the impact this project will have on migration bottlenecks
4. The BLM must reevaluate winter range as recent studies show that the BLM currently underestimates winter ranges

BLM Response:

I: See the following discussion for each individual category (A., B., B.1., etc.).

A: The seasonal “restrictions” in the Pinedale RMP are management guidelines, they are not hard and fast rules. The RMP specifies that the Authorized Officer may grant exceptions to seasonal restrictions, in consultation with the Wyoming Game and Fish Department (WGFD) if conditions warrant. The crucial mule deer and antelope winter ranges within the Merna 3D Project area are constrained by the winter restriction. The geophysical operator has scheduled their operations to be north of the WGFD-revised mule deer winter ranges in the Ryegrass and Cora Butte areas by November 15. If operations have not cleared these winter ranges by November 15 operations will be suspended, unless conditions warrant an exception to the restriction. Operations are scheduled to occur on moose winter range after November 15. Virtually all of the moose winter range is located on private lands and is not under BLM jurisdiction. Veritas has coordinated winter operations with WGFD. Helicopter operations over core wintering areas (willow riparian habitat) is to be kept to an altitude of 300 feet or greater (see WGFD-Cheyenne Office comment letter attached to the EA and to BLM Response to WGFD comments above). Winter operations in the willows will be pedestrian traffic to place and retrieve geophone cables and to detonate shot-hole charges.

B. The Merna 3D EA does consider the results of and incorporates information from recent ungulates studies in the Pinedale Resource Area (see the wildlife sections in the EA).

1. The Merna 3D EA does consider the impact this project will have on migration routes. Refer to the EA and to the BLM Response to the Wyoming Wildlife Federation comment concerning big game migration.

2. The Merna 3D EA does consider the impact this project will have on seasonal habitat. Refer to the wildlife discussion in the EA. The EA acknowledges that the proposed geophysical activity would damage or kill approximately 1480 acres of sagebrush (0.9 percent of the project area). It is important to remember that this occurs in very narrow bands scattered uniformly across the project area. The EA also notes that this kill/damage pattern is analogous to a sagebrush thinning and will serve to bring younger, more vibrant and succulent brush plants back to the area. These younger plants would potentially provide higher protein forage for wintering mule deer and antelope in future winters. This situation would occur on both the winter and transitional habitats.

3. The Merna 3D EA does consider the impact this project will have on migration bottlenecks. Refer to the migration discussion sections in the EA and to the BLM Response to the Wyoming Wildlife Federation comment concerning big game migration.

4. The new winter range boundaries for the Cora Butte and Ryegrass areas have been incorporated into the wildlife section of the affected environment for the Merna 3D EA and are being incorporated into the Pinedale RMP through plan maintenance.

WOC, et.al. Comment:

II. The BLM must ensure compliance with the Endangered Species Act

BLM Response: The Merna 3D EA does comply with the Endangered Species Act. Refer to the T & E discussion sections in the EA and to the BLM Response to the US Fish and Wildlife Service Comments, above.

WOC, et.al. Comment:

III. The BLM must consider the impact to elk

BLM Response: The Merna 3D EA does consider the impact to elk. Refer to the elk discussion in the EA and to the BLM Response to the Wyoming Wildlife Federation comment concerning elk.

WOC, et.al. Comment:

IV. The BLM must consider similar, connected, and cumulative actions of other seismic project, oil and gas leasing, and development

A The BLM must consider of the numerous seismic projects in the Upper Green River Basin

B. The BLM must consider the leasing in this analysis

C. The BLM must consider the current, proposed, and foreseeable oil and gas development in this analysis

BLM Response:

I: As stated in the BLM Response to a Sparrowe comment above, “Geophysical exploration is essentially an inventory and data collection process to determine whether the subsurface geology contain suitable structure for mineral development. It is analogous to conducting big game inventories to determine if there are sufficient animals to support hunting. Geophysical projects like the Merna 3D can provide valuable insight of future actions. Without suitable data it is extremely difficult for the energy industry to predict/project future development. Without these predictions/projections is extremely difficult to accurately analyze future actions and their potential effects.” The CFR citations WOC, et.al. use are processes for the development of an EIS. The BLM has determined that the Merna 3D Project would not result in significant impacts and therefore an EIS is not needed. A specific citation used by WOC, et. al. states, “Connected actions are defined as actions that are: [C]losely related and therefore should be discussed in the same **impact statement** (emphasis added by BLM). Actions are connected if they: i) Automatically trigger other actions, which may require environmental impact statements; ii) Cannot or will not proceed unless other actions are taken previously or simultaneously; iii) Are independent parts of a larger action and depend on the larger action for their justification. 40 C.F.R. 1508.25(a)(3)” In response to item i): The proposed geophysical project does NOT automatically trigger other actions. For example, should data collected through this subsurface geological inventory processes, such as the Merna Project, determine that potential hydrocarbon bearing structure does not exist within the inventory area, then future development likely would not occur. In response to Item ii): Geophysical exploration is NOT predicated on any previous or simultaneous actions. 43 CFR 3150 provides the guidance for geophysical exploration on Federal lands and minerals. 43 CFR 3150 does not require that prior action, such as leasing, occur before a geophysical project can proceed. In fact, geophysical exploration can and does occur on unleased Federal lands and minerals. In response to Item iii): As stated above geophysical exploration is an inventory tool to determine whether subsurface geological strata potentially contain hydrocarbon reserves. Geophysical exploration is undeniably a tool to help define future actions. However, depending on the results of the inventory process, future drilling may or MAY NOT occur. Because future drilling may not occur, geophysical exploration cannot automatically be considered an “independent part of a larger action”, nor do they necessarily, “depend on the larger action for their justification”.

A. The Merna 3D EA does address and consider the cumulative affects of specific past and on-going seismic projects that connect with, adjoin, or overlap with the Merna project. It does not consider projects that are not physically connected to the Merna project. Many of the WOC et.al. referenced seismic projects do share the commonality of being in the same geographic region (i.e., Sublette County, Wyoming and the Upper Green River Basin) as the Merna project, however many are located miles from the Merna Project and were designed to collect inventory data from unconnected and unrelated subsurface plays.

B. As stated above geophysical exploration is not dependent on oil and gas leasing, nor is oil and gas leasing dependent on geophysical exploration. Therefore; it is not practical or reasonable for the EA for the Merna 3D Project to addressing oil and gas leasing throughout the entire Pinedale Field Office area as implied by WOC. et.al, Furthermore, leasing throughout the Pinedale Field Office area has been addressed and was approved through the Pinedale RMP.

- Concerning the WOC. et.al request that the acreage of all leased lands in the Pinedale Field Office be disclosed: The EA does discuss the percentage of the Merna Project area that is leased. It not germane to this analysis to list all leased lands within the Field Office. As stated above, leasing in the Pinedale Field Office area has been

addressed and was approved through the Pinedale RMP.

- Concerning the WOC, et.al request that the acreage expected to be leased in the reasonably foreseeable future: It is not possible for the Pinedale Field Office to predict where leasing may or may not occur. Under the leasing system, leases may be held for 10 years, unless the lease contains producing wells, in which case these lease may be held as long as it is producing. After 10 years or after the end of production a lease can expire, at which time it can again be re-nominated by the industry or other public members to be leased again. We cannot accurately predict which leases will be nominated and if they are nominated which ones will actually be leased. The bi-monthly oil and gas lease sale frequently contains nominated parcels that do not get leased.
- Concerning the WOC, et.al request the Merna Project discuss the direct, indirect, and cumulative effects of leasing *combined with* this seismic project to all other natural resources in the Pinedale RA: The EA does discuss the cumulative affects of the proposed seismic action with other actions that have occurred within the Merna 3D Project area. It is not reasonable or practical for the EA to discuss unrelated resources located elsewhere within the Pinedale Field Office.

C. Concerning the WOC, et.al. request that the BLM must consider the current, proposed, and foreseeable oil and gas development in this analysis: The EA discusses and discloses the anticipated impacts related to the actions proposed. In the absence of the targeted geophysical data, it is not possible for the oil and gas industry to predict where and what level of future oil and gas development may or may not be proposed. It is equally not possible for BLM to make these predictions. Further it is not reasonable or practical for the analysis for the Merna 3D project to address oil and gas development occurring outside the project area. Furthermore the development occurring outside the Merna Project area has been addressed through the Pinedale RMP and other most specific project level EIS's or EAs. Furthermore, the establishment of a foreseeable oil and gas scenario for the Pinedale Field Office is not a function of the Merna 3D EA, it is a function of a Field Office-wide Plan, i.e., RMP.

- Concerning the WOC, et.al. request for total number of wells in the Pinedale Resource Area; request for acreage currently and expected to be disturbed due to construction of roads, well pads, pipeline, compressor stations, and seismic activities in the Pinedale Resource Area; request for total areas fragmented by oil and gas exploration and development activities; and request for number of wells to be drilled in the reasonably foreseeable future: These are land use planning level issues to be addressed through a planning area wide land use plan, not through a project specific analysis.

WOC, et.al. Comment:

V. The BLM must consider direct, indirect, and cumulative impacts of the proposed project together with the impacts of other seismic projects, oil and gas leasing and development

BLM Response: Refer to the EA for discussion concerning the bullet items within WOC, et.al, comment number V. To review the specific bulleted items, refer to the WOC, et.al comment letter in Appendix C of the Merna 3d EA. Also refer to BLM response to WOC, et.al. comment number IV, above.

WOC, et.al. Comment:

VI. The BLM must consider a reasonable range of alternatives including a “No Action” Alternative

- An alternative that prohibits surface-disturbing activities in transitional and winter ranges, in migration corridors, and in migration bottlenecks for mule deer, pronghorn antelope, and moose *all together*

- An alternative that prohibits surface-disturbing activities in transitional and winter ranges, in migration corridors, and in migration bottlenecks for mule deer, pronghorn antelope, and moose between November 15 and April 30;
- A *No Motorized use Alternative*, with the hand laying of lines only; and
- A *Helicopter Only Alternative*

BLM Response: Refer to the *Description of Alternatives Considered* in the Merna 3D EA.

WOC, et.al. Comment:

VII. The BLM must complete an EIS prior to making its decision

- A. The nature of the project in and of itself triggers an EIS
- B. The BLM must complete an EIS in light of the unique and the significant ecological importance of the area.
- C. The BLM must complete an EIS in light of the cumulative impacts of oil and gas exploration and development in the basin
- D. Approval of this proposal would set a dangerous precedent

BLM Response: Concerning WOC, et.al. comment numbers VII., A., and B.: BLM prepared, via a third party contractor, an Environmental Assessment for this project. The EA determined potential effects to soil, water resources, vegetation, cultural resources, and wildlife, as well as public safety, residential areas, socio-economics, visual resources, recreation, and livestock, prescribed mitigation. Based on the analysis, BLM determined that the project would not significantly alter the physical or human environment, and that an EIS was not necessary.

The EA considered the effects of the proposed project, in conjunction with on-going oil and gas development, as well as with past geophysical actions that over-lap with this project. The cumulative impacts analysis also discusses vegetative losses to roads and pipelines, and vegetative conversion that have resulted from pipeline reclamation and hayfield installation. Based on the analysis, BLM concluded that the Merna 3D Geophysical Project is in conformance with the Pinedale Resource Management Plan (RMP). BLM further concluded, with application of the BLM standard practices for surface-disturbing activities and with application of mitigation identified in the EA, the project will not have significant impacts on the human environment and an EIS is not required.

Concerning WOC, et.al. comment number VII. C.: The Merna 3D EA addresses the cumulative affects of the project and other past and ongoing activities on the environment within the project area and in adjoining areas where warranted. Refer to the discussion under BLM response WOC. et.al. comment IV above relative to basin-wide analysis.

Concerning WOC, et.al. comment number VII. D.: The Merna 3D does not set a dangerous precedent relative to activities on crucial big winter range. As stated in the BLM response to WOC, et.al. comment I. A., “The seasonal “restrictions” in the Pinedale RMP are management guidelines, they are not hard and fast rules. The RMP specifies that the Authorized Officer may grant exceptions to seasonal restrictions. in consultation with the Wyoming Game and Fish Department (WGFD) if conditions warrant. The crucial mule deer and antelope winter ranges within the Merna 3D Project area are constrained by the winter restriction. The geophysical operator has scheduled their operations to be north of the WGFD-revised mule deer winter ranges in the Ryegrass and Cora Butte areas by November 15. If operations have not cleared these winter ranges by November 15 operations will be suspended, unless conditions warrant an exception to the restriction. Operations

are scheduled to occur on moose winter range after November 15. Virtually all of the moose winter range is located on private lands and is not under BLM jurisdiction. Veritas has coordinated winter operations with WGFD. Helicopter operations over core wintering areas (willow riparian habitat) is to be kept to an altitude of 300 feet or greater (see WGFD-Cheyenne Office comment letter attached to the EA and to BLM Response to WGFD comments above). Winter operations in the willows will be pedestrian traffic to place and retrieve geophone cables and to detonate shot-hole charges.”

WOC, et.al. Comment:

VIII. A Public Comment Period of the BLM’s decision is required

BLM Response: The BLM Field Manager has the authority and responsibility to determine whether the action warrants public scoping and EA/FONSI review or not. BLM Manual (H-1790-1) states that “*The manager responsible for authorizing the action must determine if the EA and FONSI should be made available for public review (usually a 30-day review period) before making a final determination on the action. ... A public review of the EA and FONSI is usually only necessary under certain limited circumstances as defined in CEQ regulations (40 CFR 1501.4(e)(2)).*” The CEQ regulations state,

(2) In certain limited circumstances, which the agency may cover in its procedures under §1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to §1507.3, or

(ii) The nature of the proposed action is one without precedent.”

The Merna 3D does not fall in either of these categories. Concerning category (i): Actions which are determined not to significantly affect the human environment do not require the preparation of an EIS. Geophysical projects are routinely analyzed through an environmental analysis. Numerous geophysical projects similar to the Merna 3D Project have been analyzed and approved under EAs throughout the western United States. Concerning category (ii): The Merna 3D Project is similar to other geophysical projects analyzed and conducted in the vicinity, state, and region. It does not set project or environmental precedent. Refer to the BLM Response to WOC, et.al. comment VII. D., above.

WOC, et.al. Comment:

IX. The project cannot proceed because the BLM has exceeded its Reasonably Foreseeable Development Scenario in violation of the National Environmental Policy Act and the Federal Land Policy Management Act

BLM Response: As stated above, the Pinedale Field Office has not exceeded the reasonable foreseeable development (RFD) scenario for oil and gas development. In 1988, the Pinedale RMP established a RFD of 900 additional well locations for the 20-year planning period. This is above the 1000 that were producing at that time. The Pinedale Anticline EIS ROD at page 34 revised the RFD with an additional projected 1044 locations. Based on AFMSS records, as of July 9, 2002 the Pinedale Field Office had 2181 producing, plugged, drilling, and constructed well locations.

WOC, et.al. Comment:

X. The project may not approve this project in light of the ongoing RMP Revision Process

BLM Response: The WOC, et.al. assertion would potentially have merit if the Pinedale Field Office did not have a valid and existing land use plan supported by an EIS, but PFO does have such a plan, the 1988 Pinedale RMP. The RMP process is a dynamic procedure that is updated as new information becomes available and/or as decisions need modified or revised. The process is updated through maintenance actions, amendments, and/or revision, none of which invalidates the parent plan. Existing decisions remain in effect until they are deleted, modified, or replaced through the maintenance/amendment/revision process.

WOC, et.al. asserts that “*Amending the RMP is significant in that it involves an EIS, triggering 40 C.F.R. § 1506.1. That regulation provides:*

Limitations on Actions During NEPA Process (a) Until an agency issues a record of decision . . . no action concerning the proposal shall be taken which would: (1) Have an adverse environmental impact; or (2) Limit the choice of reasonable alternatives.”

This assertion is not pertinent to the Merna project for the following reasons:

- (1) The 1988 RMP EIS/ROD is still an existing and valid planning and environmental document which provides for mineral development action, including geophysical exploration;
- (2) The Decision Record for the Merna 3D EA determines that the project would not have significant impact;
- (3) Implementation of the Merna 3D project will not limit the choice of reasonable alternatives in the RMP revision process. The proposed geophysical project will not result in an irreversible or irretrievable commitment of resources. It does not commit the BLM to any particular course of decisions; it simply allows the geophysical operator to collect subsurface geologic inventory data needed to project future actions.

WOC, et.al. Comment:

XI. If approved this project will violate the Federal Land Management Policy Act’s multiple use mandate.

BLM Response: Implementation of the proposed project would NOT violate the concept of multiple use. The Merna 3D Project is not proposed to be an exclusive use of public land. It would be one of numerous public and resource uses of the Federal lands within the project area. As shown in the EA, and as stated in several of the letters of comment, these lands provide habitat for a variety of wildlife species. They are also used for livestock grazing recreation in the form of wildlife viewing, hunting, fishing, OHV activity, sightseeing, and public access via highways and County roads. As stated in the EA and in the WOC, et.al. comment number X, the area is also leased for oil and gas resource development.

WOC, et.al. Comment:

XII. The BLM must consult with the Advisory Council on Historic Preservation and the State Historic Preservation Office before it may approve this project.

BLM Response: Refer to the SHPO comment letter. The inventory and avoidance procedure used for geophysical projects and outlined in the EA are in accordance with the Wyoming State Protocol Agreement.